



UNITED STATES DISTRICT COURT for the
EASTERN DISTRICT OF VIRGINIA

Graham Schreiber

Plaintiff

Against

Lorraine Dunabin

Defendant

Civil Action No. 1:12 – CV - 852

I

ADMISSIONS AND DENIALS

1. The defendant denies that www.landcruise.uk.com is an abusive, infringing, look-a-like registration.
2. The defendant denies that she knew of the plaintiff before her own company was set up.
3. The plaintiff admits that a member of her office together with the web designer visited www.landcruise.com from an IP address registered to Andrew Wheeler before www.landcruise.uk.com was purchased. The defendant denies that this person was her.
4. The defendant admits that the LandCruise web site includes the statement ALCO Leisure Ltd trading as LandCruise.
5. The defendant denies that she desired the plaintiff's domain name. She actually wanted www.landcruise.co.uk which in 2009 was unavailable. ALCO Leisure Ltd has later been able to acquire this.
6. The defendant lacks sufficient knowledge or information to determine the allegations in paragraphs 7 – 10 and 13 – 17 of the complaint as she is unable to determine exactly what the plaintiff is accusing her of. She is not aware that she wilfully ignored the terms and conditions posed by ENOM
7. The defendant lacks sufficient knowledge or information to determine whether Graham Schreiber is damaged.
8. The defendant denies that the plaintiff has ever conducted himself in an accommodating manner.
9. The defendant denies that she was ever asked the question of whether she had ever visited the Plaintiff's business prior to securing the domain name of .co.uk and therefore couldn't have lied under oath by giving the response that she had never visited until the Plaintiff contacted her office.

II

DEFENSES

FIRST DEFENSE:

The domain names www.landcruise.uk.com, www.landcruise.co.uk, and the UK registered LandCruise trademark are owned by the company ALCO Leisure Ltd and not by Lorraine Dunabin as an individual.

SECOND DEFENSE

This court lacks venue over this action. It does not have the jurisdiction to remove ownership of the domain name www.landcruise.co.uk or the UK registered LandCruise trademark from ALCO Leisure Ltd. If it transfers or forces CentralNic to transfer the domain name www.landcruise.uk.com over to Landcruise Canada, this will be a trademark infringement on ALCO Leisure Ltd's UK registered trademark.

THIRD DEFENSE

Since 2010 Graham Schreiber has repeatedly accused the defendant of blatant plagiarism, an intent to capitalise on the reputation of his Company – Landcruise Canada (I call them Landcruise Canada as that is the name shown on the banner of www.landcruise.com) and of an abusive registration of www.landcruise.co.uk and www.landcruise.uk.com . I would like this opportunity to show you as best I can that :

1. The brand name of our company was devised by us with no knowledge of any other motorhome hire company operating under this name and that our success story so far has been down to our own marketing efforts and operationally establishing a service that appeals to customers in the UK. We have not copied their brand.
2. This is not an abusive registration of www.landcruise.co.uk and www.landcruise.uk.com as we own the UK registered trademark of LandCruise.
3. We are not passing ourselves off as Landcruise Canada.

This is not plagiarism

The proposal to establish a motorhome hire company was first mooted in 2008. We were looking for a business to run alongside our property management company. Please note so that there is no ambiguity, whenever I state the term “when we set up our company” I am referring to the time around the end of 2008/beginning of 2009 in all cases.

When our attention was turned to finding a brand name and identity, the actual seed of inspiration that led to us eventually calling our company LandCruise came from a business card I had picked up at a local Garden show at Stansted Park for a company called Just Cruizin - www.justcruizinclimbing.com/ . A copy of this business card is enclosed. This company's identity was everything we wanted to emulate. It was fresh and vibrant and summed up the kind of company we wanted to build and for a while in the project stage of the development our company was known as LandCruiz.

LandCruiz/LandCruise is just such an obvious choice of name for a motorhome hire company. Some of the early LandCruise logo concepts (enclosed) were also influenced by the Just Cruizin Clothing logo. When the name of LandCruise was finally decided upon a search was carried out on whether anyone had any registered legal property rights to the name LandCruise and none were found. Landcruise Canada only registered their USPTO mark much later in June 2011. There were some concerns about whether the LandCruise name was too close for comfort to the Toyota Land Cruiser - a major established brand in the UK - and for that reason a trademark on LandCruise was sought and obtained with the UK Intellectual Property Office in December 2009. Since members of the Toyota marketing team have stayed in a LandCruise motorhome and tweeted a picture of the Land Cruiser V6 alongside the LandCruise motorhome, I think we can reasonably assume, that we no longer need to have any concerns from Toyota.

FOURTH DEFENSE

LandCruise is a registered trademark in the UK owned by ALCO Leisure Ltd. A copy of our trademark registration certificate is enclosed. We are not an "unauthorized firm" as Graham Schreiber continues to allege. This registered trademark gives us legality in the UK market and having gone through the correct procedure in establishing our name, we intend to keep UK domain names and continue trading under our brand name. We have tried to explain this to Graham Schreiber, but he dismisses the fact that we are "legal as a LandCruise in the UK" as unimportant compared to his rights as a .COM.

FIFTH DEFENSE

To the defendant it is insulting to suggest that we are trying to pass ourselves off as part of a significantly larger "Landcruise" group, under direction of Head Office, there in Canada. This is our UK Company. Our brand. Our registered trademark. Our sales and marketing efforts. Our hard work which attracts and retains our customers. The reason that the plaintiff has failed in his legal attempts in the UK is that he has failed to show that Landcruise Canada is a global brand. He does not supply a Landcruise branded motorhome anywhere other than Canada. His web site www.landcruise.com clearly shows the focus of his market with the headline banner of LandCruise Canada: Victoria, Vancouver, Kelowna, Whitehorse, Edmonton, Calgary, Toronto, Montreal, Halifax, St John's. There are no international offices in any other country, no international representatives or contacts that fall under Landcruise name. The report that he has submitted that shows that a member of our office visited www.landcruise.com also reveals how few visitors the plaintiff's site receives. Using the Alexa traffic rankings – www.landcruise.uk.com is ranked in position 1,188,127 and www.landcruise.com is ranked in position 3,329,655. Some may argue that Alexa isn't accurate, but it is considered to be a tool that gives a general picture. The defendant sees LandCruise UK as a small local motorhome hire business in Chichester, West Sussex and yet from the reports I have seen it receives more visitors than Landcruise Canada. The plaintiff's argument that we would benefit from his "global" Landcruise just doesn't stack up when we already have a greater internet presence. For over a year, our online enquiry form has

included the question Have you hired a motorhome before? If yes, who from? The sole purpose of this question is to see if any of our potential customers have previously hired with Landcruise Canada. We only ask it because the defendant has been continuously threatened with legal action by the plaintiff. In all the time that question has been posted on the internet – not one person has answered I have previously hired a motorhome from Landcruise Canada. Not one.

SIXTH DEFENSE

As the Plaintiff admitted in his complaint submission to Nominet we present a page illustration that is very different from www.landcruise.com. There is no comparison whatsoever and customers would easily recognise that the two web sites are not from the same company. There is nothing left for confusion. We only supply motorhome hire from one base in Chichester, West Sussex. We believe Landcruise Canada only supplies motorhomes from Canada and not the UK. Location of the motorhome hire company is the number one consideration when customers choose their provider. In addition to location, we have a totally separate logo and identity.

SEVENTH DEFENSE

The fact that the Plaintiff makes a big deal about the fact that our small print includes the words ALCO Leisure Ltd “trading as” LandCruise shows that he knows nothing about the UK marketplace. It is quite a common occurrence in the UK for Limited Companies to adopt a “trading” name to run their business with. I believe the United States uses the term “doing business as” and other countries use “operating as”.

EIGHTH

Throughout the Nominet legal process, the defendant repeatedly asked the plaintiff for proof that LandCruise in Chichester was affecting his business in Canada. He did not provide any and even made the statement “As such; nothing that I’m aware of” in an email sent on 23 November 2011 to Nominet.

III

COUNTERCLAIMS

1. Graham Schreiber has subjected Lorraine Dunabin to over two years of personal harassment. In the simple act of serving this summons on Lorraine Dunabin, he sent four emails, two phone calls to the LandCruise office, one phone call to her home and a Facebook message. In the legal action taken through Nominet, he sent over 70 emails and documents after the closing deadline. He has also circulated an email around four different people at CentralNic and Nominet discussing whether she had recently got divorced. Plus the lowest point in his campaign of harassment is to send her an email at 7pm on Sunday 8 January 2012 to say he was stalking her on the

internet. The very fact that this summons is against Lorraine Dunabin rather than the company that owns the UK registered LandCruise trademark is a continuance of that harassment.

I declare under the penalty of perjury that the foregoing is true and correct.

Signed this 3 September 2012

Signature of Defendant:



Address:

Unit 5 Woodhorn Business Centre

Woodhorn Lane

Oving

Chichester

West Sussex

Telephone Number

+44 1243 380000

TRADE MARKS REGISTRY



REGISTRATION CERTIFICATE

Trade Marks Act 1994 of

Great Britain and Northern Ireland

The mark shown below has been registered under No. 2534398 as of the date 15 December 2009.

LandCruise

The mark has been registered in respect of:

Class 39:

Motorhome hire.

In the name of LandCruise Motorhome Hire

Signed this day at my direction

JOHN ALTY, Registrar of Trade Marks Intellectual Property Office

DATE 02 April 2010

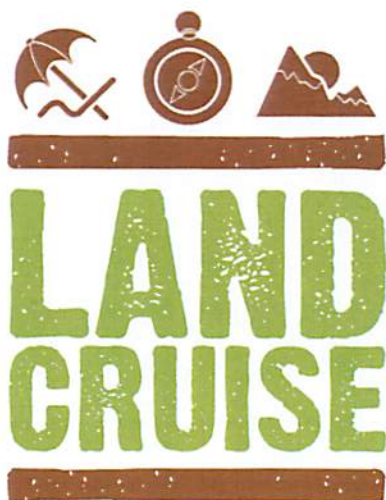
Intellectual Property Office is an operating name of the Patent Office



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